THE DEKKHAN AGRICULTURISTS' RELIEF ACT, 1879.

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*ACT No. XVII OF 1879.[1]

[THE DEKKHAN AGRICULTURISTS' RELIEF ACT, 1879.]

[*29th October 1879.*]

Repealed in part, by Act 12 of 1891 ;
" " " " " 16 of 1895 ;
Repealed in part and amended, by Act 23 of 1881 ;
" " " " " " " 22 of 1882 ;
" " " " " " " 23 of 1886 ;
" " " " " " " 6 of 1895 ;
" " " " " " " 38 of 1920 ;
" " " " " " Bom. 1 of 1912 ;

Amended by Bom. 1 of 1902 ;
" " " 2 of 1907 ;
" " " 1 of 1910 ;
" " " 7 of 1927 ;
" " " 14 of 1932 ;
" " " 5 of 1935.

Adapted and modified by the Adaptation of Indian Laws Order in Council.

Adapted and modified by the Indian Independence (Adaptation of Central Acts and Ordinances) Order, 1948.

An Act for the relief of Indebted Agriculturists in certain parts of the Dekkhan.

WHEREAS it is expedient to relieve the agricultural classes in certain parts of the Dekkhan from indebtedness ; It is hereby enacted as follows :— Preamble.

CHAPTER I.

PRELIMINARY.

1. This Act may be cited as the [2]Dekkhan Agriculturists' Relief Act, 1879 ; and it shall come into force on the first day of November, 1879. Short title. Commencement.

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* Notwithstanding the repeal of the Dekkhan Agriculturists' Relief Act, 1879, by the Bombay Agricultural Debtors Relief Act, 1939 (Bom. 28 of 1939), the first mentioned Act shall, in so far as it applies to transactions and proceedings to which the Bombay Agricultural Debtors Relief Act, 1947 (Bom. 28 of 1947), does not apply, be deemed to have been re-enacted with effect from 27th May 1947 (hereinafter referred to as the said date) and shall continue in force for a period of three years from the said date :

Provided that any proceeding in or out of any suit instituted before the expiry of the said three years shall be continued and disposed of after the expiry of the said period, as if the Dekkhan Agriculturists' Relief Act, 1879, had continued in force after the expiry of the said period [*vide* Bom. 28 of 1947, s. 56 (*1*)].

[1] For Statement of Objects and Reasons, *See Gazette of India*, 1879, Pt. V, p. 796 ; for Report of the Select Committee, *See ibid*, p. 939 ; for Proceedings in Council relating to the Bill it was originally proposed to introduce, *See ibid*, 1878, Supplement, p. 1028 ; and for Proceedings relating to the Bill which included the provisions of both this Bill and the Bill which the Local Council had introduced, *See ibid*, 1879, Supplement, pp. 595, 833, 873 and 1327.

[2] Acts 17 of 1879, 23 of 1881 and 22 of 1882 may be cited collectively as the Dekkhan Agriculturists' Relief Acts, 1879 to 1882—*see* s. 1 (*1*) of the Dekkhan Agriculturists' Relief Act, 1882 (22 of 1882). The Acts of 1879 to 1882 and Act 23 of 1886 may be cited collectively as the Dekkhan Agriculturists' Relief Acts, 1879 to 1886—*see* s. 1 (*1*) of the Dekkhan Agriculturists' Relief Act, 1886 (23 of 1886). The Acts of 1879 to 1886 and Act 6 of 1895 may be cited collectively as the Dekkhan Agriculturists' Relief Acts, 1879 to 1895—*see* s. 1 (*1*) of the Dekkhan Agriculturists' Relief Act, 1895 (6 of 1895). The Acts of 1879 to 1895 and Bom. 1 of 1902 may be cited collectively as the Dekkhan Agriculturists' Relief Acts, 1876 to 1902—*see* s. 1 (*1*) of the Dekkhan Agriculturists' Relief Act, 1902 (Bom. 1 of 1902).

Local extent. [1][This section and] sections 11, 56, 60 and 62 extend to [2][all the Provinces of India]. The rest of this Act extends only to the districts of Poona, Satara, Sholapur and Ahmednagar, [3][but may, from time to time, be extended wholly or in part by the [4][Provincial Government] [5]* * * * * * * * * * * * * to any other district or districts in the Presidency of Bombay], [6][or to any part or parts of any other such district or districts].

Construction. [7][2. In construing this Act, unless there is something repugnant in the subject or context, the following rules shall be observed, namely :—

1st.—" Agriculturist " shall be taken to mean a person who by himself or by his servants or by his tenants earns his livelihood wholly or principally by agriculture carried on within the limits of a district or part of a district to which this Act may for the time being extend, or who ordinarily engages personally in agricultural labour within those limits.

Explanations.—(*a*) An agriculturist who, without any intention of changing his status as such, temporarily ceases to earn his livelihood by agriculture or to engage personally in agricultural labour as aforesaid, or who is prevented from so earning his livelihood or engaging in agriculture by age or bodily infirmity or by necessary absence in the military service of Her Majesty, does not thereby cease to be an agriculturist within this definition.

(*b*) An assignee of Government assessment or a mortgagee is not as such an agriculturist within this definition.

2nd.—In Chapters II, III, IV and VI, and in section 69, the term " agriculturist " when used with reference to any suit or proceeding, shall include a person who, when any part of the liability which forms the subject of that suit or proceeding was incurred, was an agriculturist within the meaning of that word as then defined by law.

3rd.—An agriculturist shall be deemed to reside where he earns his livelihood by agriculture or personally engages in agricultural labour as aforesaid.

4th.—" Money " shall be deemed to include agricultural produce, implements and stock.

5th.—" Lease " shall be deemed to include a counterpart, kabuliyat, an undertaking to cultivate or occupy, and an agreement to lease.

6th.—" Standing crops " shall include crops of all sorts attached to the soil, and leaves, flowers, and fruits upon, and juice in, trees and shrubs.]

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[1] These words were inserted by s. 3 of the Dekkhan Agriculturists' Relief Act, 1881 (23 of 1881) and are to be deemed to have always been inserted.

[2] The words " all the Provinces of India " were substituted for the words " the whole of British India " by the Indian Independence (Adaptation of Central Acts and Ordinances) Order, 1948.

[3] These words were added by s. 3 of the Dekkhan Agriculturists' Relief Act, 1886 (23 of 1886).

[4] The words " Provincial Government " were substituted for the words " Local Government " by the Adaptation of Indian Laws Order in Council.

[5] The words " with the previous sanction of the Governor General in Council " were omitted by s. 2 and Sch. I of the Devolution Act, 1920 (38 of 1920).

[6] These words were added by s. 4 of the Dekkhan Agriculturists' Relief Act, 1895 (6 of 1895).

[7] This section was substituted by s. 5, *ibid.*

The original section was as follows :—

" 2. In this Act, unless there is something repugnant in the subject or context,—

(*1*) ' money ' includes agricultural produce, implements and stock :

(*2*) ' agriculturist ' means a person who earns his livelihood wholly or principally by agriculture carried on within the limits of the said districts ; and every agriculturist shall be deemed to ' reside ' where he so earns his livelihood."

[1][*7th.*—For the purposes of Chapters VIII and VIII-A an instrument or a copy of an instrument drawn up on a printed form by or under the superintendence of a village-registrar or of a sub-registrar shall be deemed to be an instrument or copy written or made by or under the superintendence of such registrar or sub-registrar. In this clause the term "printed form" shall be deemed to include a form prepared by any mechanical copying press.]

[2]**[2A.** Every Jagirdar and other authority invested with powers under [3]Bombay Regulation XIII of 1830 and [3]Act XV of 1840 shall, for the purposes of this Act, be deemed to be a Subordinate Judge of such class as the [4][Provincial Government] may from time to time direct.] Jagirdars, etc., to be deemed Subordinate Judges.

CHAPTER II.

OF THE HEARING OF CERTAIN SUITS BY SUBORDINATE JUDGES.

3. The provisions of this Chapter shall apply to— Application of this Chapter.

(*a*) suits for an account, [5][whatever be the amount or value of the subject-matter thereof,] instituted [6]* * * * * by an agriculturist in the Court of a Subordinate Judge under the provisions hereinafter contained, and

(*b*) suits of the descriptions next hereinafter mentioned [7]* * * * * * *

(1) when such suits are heard by Subordinate Judges of the First Class and the subject-matter thereof does not exceed in amount or value five hundred rupees, or

(2) when such suits are heard by Subordinate Judges of the Second Class and the subject-matter thereof does not exceed in amount or value one hundred rupees, or

(3) when such suits are heard by Subordinate Judges of the second class and the subject-matter thereof exceeds one hundred rupees, but does not exceed five hundred rupees, in amount or value, and the parties to the suits agree that such provisions shall apply thereto.

The descriptions of suits referred to in clause (*b*) are the following, namely :—

(*w*) suits for the recovery of money alleged to be due to the plaintiff—

on account of money lent or advanced to, or paid for, the defendant, or

as the price of goods sold, or

on an account stated between the plaintiff and defendant, or

on a written or unwritten engagement for the payment of money not hereinbefore provided for ;

(*x*) suits for recovery of money due on contracts other than the above and suits for rent or for moveable property, or for the value of such property, or for damages ; and

(*y*) suits for foreclosure or for the possession of mortgaged property, or for sale of such property, or for foreclosure [8][and] sale, when the defendant, or any one of the defendants, [9]* * * * * * * * * is an agriculturist ; and

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[1] Clause seventh was added by the Bombay Repealing and Amending Act, 1910 (Bom. 1 of 1910).

[2] Section 2A was inserted by s. 4 of the Dekkhan Agriculturists' Relief Act, 1882 (22 of 1882).

[3] *Supra.*

[4] The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation of Indian Laws Order in Council.

[5] These words were inserted by s. 5 of Act 22 of 1882.

[6] The words and figures "on or after the first day of November, 1879," were repealed by First Schedule of the Repealing and Amending Act, 1895 (16 of 1895).

[7] The words "and instituted on or after the same date" were repealed by Act 16 of 1895.

[8] The word "and" was substituted for "or" by s. 5 of the Dekkhan Agriculturists' Relief Act, 1886 (23 of 1886).

[9] The words "not being merely a surety for the principal debtor" were repealed by the Dekkhan Agriculturists' Relief Act, 1881 (23 of 1881).

(*z*) suits for the redemption of mortgaged property when the plaintiff, or, where there are several plaintiffs, any one of the plaintiffs, is an agriculturist.

Certain suits to be instituted in Courts of first class Subordinate Judges.

4. Where a Subordinate Judge of the first class and a Subordinate Judge of the second class have ordinary jurisdiction in the same local area, every suit referred to in section 3, clause (*b*), and instituted in such local area, shall, if the amount or value of the subject-matter of such suit exceeds one hundred rupees and does not exceed five hundred rupees, be instituted in the Court of the Subordinate Judge of the first class.

Subordinate Judges not to act as Judges of Small Cause Courts.

5. Notwithstanding anything contained in the [1]Bombay Civil Courts Act, 1869, section 28, no Subordinate Judge shall be invested with the jurisdiction of a Judge of a Court of Small Causes [2]* * * * * * XIV of 1869.

Jurisdiction of Subordinate Judge and Small Cause Court.

6. The [3][Provincial Government] may, from time to time, by notification in the [4][Official Gazette], direct that any class of suits which a Subordinate Judge would be precluded from hearing by section 12 of [5]Act XI of 1865 (*to consolidate and amend the law relating to Courts of Small Causes beyond the local limits of the ordinary original civil jurisdiction of the High Courts of Judicature*), shall be heard and determined by him and not otherwise, and may, by a like notification, cancel any such direction.

Summons to be for final disposal of suit.

7. In every case in which it seems to the Court possible to dispose of a suit at the first hearing, the summons shall be for the final disposal of the suit.

Court to examine defendant as witness.

In every suit the Court shall examine the defendant as a witness unless, for reasons to be recorded by it in writing, it deems it [6][clearly] unnecessary so to do.

[7][*Explanation.*—The compulsory examination of the defendant shall not be dispensed with merely by reason of the fact that the defendant has filed a written statement.]

8. [*Written statements.*] *Rep. Act VI of 1895, s. 3.*

9. [*Record of evidence.*] *Rep. Act VI of 1895, s. 3.*

No appeal to lie.

10. No appeal shall lie from any decree or order passed in any suit to which this Chapter applies.

CHAPTER III.

OF SUITS AND OTHER PROCEEDINGS TO WHICH AGRICULTURISTS ARE PARTIES.

Power of Court to determine nature of transactions and to admit evidence of an oral agreement or statement.

[8][**10A.** Whenever it is alleged at any stage of any suit or proceeding to which an agriculturist is a party that any transaction in issue entered into by such agriculturist or the person, if any, through whom he claims was a transaction of such a nature that the rights and liabilities of the parties thereunder are triable wholly or in part under this Chapter, the Court shall, notwithstanding anything

[1] *Supra.*

[2] The words "and any such jurisdiction heretofore conferred on any Subordinate Judge shall be deemed, except as regards suits instituted before the said first day of November, 1879, to have been withdrawn" were repealed by First Schedule of the Repealing and Amending Act, 1895 (16 of 1895).

[3] The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation of Indian Laws Order in Council.

[4] The words "Official Gazette" were substituted for the words "local Gazette", *ibid.*

[5] *See* now s. 16 of the Provincial Small Cause Courts Act, 1887 (9 of 1887).

[6] The word "clearly" was added by s. 6 of the Dekkhan Agriculturists' Relief Act, 1895 (6 of 1895).

[7] This *Explanation* was inserted, *ibid.*

[8] Section 10A was inserted by s. 2 of the Dekkhan Agriculturists' Relief (Amendment) Act, 1907 Bom. (2 of 1907).

I of 1872. contained in section 92 of the Indian Evidence Act, 1872, [1][or in section 49 of the Indian Registration Act, 1908] or in any other law for the time being in force, have power to inquire into and determine the real nature of such transaction and decide such suit or proceeding in accordance with such determination and shall be at liberty, notwithstanding anything contained in any law as aforesaid, to admit evidence of any oral agreement or statement [2][or unregistered document] with a view to such determination and decision:

Provided that such agriculturist or the person, if any, through whom he claims was an agriculturist at the time of such transaction:

Provided further that nothing in this section shall be deemed to apply to any suit to which a *bona fide* transferee for value without notice of the real nature of such transaction or his representative is a party where such transferee or representative holds under a registered deed executed more than twelve years before the institution of such suit.

Illustrations.

(*a*) A landlord sues for possession of land leased by him to an agriculturist. The defendant alleges that he mortgaged the land with possession to the lessor who is entitled to its possession only as such mortgagee and not as owner, and asks that he may be allowed to redeem the mortgage without being ejected. The Court may admit evidence on this allegation, and, if satisfied that it is correct, may decline to eject the defendant as tenant, and allow the suit to be converted into one for redemption of the mortgaged property.

(*b*) An agriculturist sues to redeem property alleged to have been mortgaged by a deed in the form of a lease. The Court may admit evidence of the intention of the parties outside the deed in order to determine whether the transaction was a mortgage or a lease, and if satisfied that the transaction was a mortgage may enforce the deed as a mortgage-deed.

(*c*) A money-lender sues to enforce a sale-deed entered into by any agriculturist. It is alleged that there was a contemporaneous oral agreement that the transaction should be deemed to be a mortgage. The Court may admit evidence of such oral agreement, and if satisfied of the existence of the agreement may decline to enforce the deed as a sale-deed.

(*d*) An agriculturist sues to redeem property alleged to have been mortgaged by a deed in the form of a sale. The Court may admit evidence of the intention of the parties outside the deed in order to determine whether the transaction was a mortgage or a sale, and if satisfied that the transaction was a mortgage may enforce the deed as a mortgage-deed.]

Agriculturists to be sued where they reside.

11. Every suit of the description mentioned in section 3, clause (*w*) may if the defendant, or, when there are several defendants, one only of such defendants, is an agriculturist, be instituted and tried in a Court within the local limits of whose jurisdiction such defendant resides, and not elsewhere.

Every such suit in which there are several defendants who are agriculturists may be instituted and tried in a Court within the local limits of whose jurisdiction any one of such defendants resides, and not elsewhere.

Nothing herein contained shall affect sections 22 to 25 (both inclusive) of the Code of Civil Procedure.

[1] These words and figures were inserted by s. 2 (*i*) of Bom. 5 of 1935.

[2] These words were inserted by s. 2 (*ii*), *ibid.*

History of transactions with Agriculturist debtors to be investigated.

12. In any suit of the description mentioned in section 3, clause (*w*) in which the defendant or any one of the defendants[1]* * * is an agriculturist,

and in any suit of the descriptions mentioned in section 3, clause (*y*) or clause (*z*),

[2][the Court, if the amount of the creditor's claim is disputed, shall examine both the plaintiff and the defendant as witnesses, unless, for reasons to be recorded by it in writing, it deems it unnecessary so to do, and shall inquire] into the history and merits of the case, from the commencement of the transactions between the parties and the persons (if any) through whom they claim, out of which the suit has arisen, first with a view to ascertaining whether there is any defence to the suit on the ground of fraud, mistake, accident, undue influence or otherwise, and, secondly with a view to taking an account between such parties in manner hereinafter provided.

When the amount of the claim is admitted and the Court for reasons to be recorded by it in writing believes that such admission is true and is made by the debtor with a full knowledge of his legal rights as against the creditor, the Court shall not be bound to inquire, but may do so if it thinks fit.

In other cases in which the amount of the claim is admitted, the Court shall be bound to inquire as aforesaid.

Section 9, clause first, of [3]Bombay Regulation V of 1827 is repealed so far as regards any suit to which this section applies.

Nothing herein contained shall affect the right of the parties to require that any matter in difference between them be referred to arbitration.

Mode of taking account.

13. When the Court inquires into the history and merits of a case under section 12, it shall—

notwithstanding any agreement between the parties or the persons (if any) through whom they claim, as to allowing compound interest or setting-off the profits of mortgaged property without an account in lieu of interest, or otherwise determining the manner of taking the account.

and notwithstanding any statement or settlement of account, or any contract purporting to close previous dealings and create a new obligation,

open the account between the parties from the commencement of the transactions and take that account according to the following rules (that is to say) :—

(*a*) separate accounts of principal and interest shall be taken :

(*b*) in the account of principal there shall be debited to the debtor such money as may from time to time have been actually received by him or on his account from the creditor, and the price of goods, if any, sold to him by the creditor, as part of the transactions :

[4](*c*) in the account of principal there shall not be debited to the debtor any sum in excess of a sum due or to accrue due under a decree which the debtor may have agreed directly or indirectly to pay in pursuance of any agreement relating to the satisfaction of the said decree :

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[1] The words "not being merely a surety of the principal debtor" were repealed by the Dekkhan Agriculturists' Relief Act, 1881 (23 of 1881).

[2] These words were substituted for the words "the Court shall, if the amount of the creditor's claim is disputed, inquire" by Act 23 of 1886, s. 6.

[3] *Supra.*

[4] Clause (*c*) was substituted for the original clause by s. 2 of Bom. 14 of 1932.

The original clause was as follows :—

(*c*) in the account of principal there shall not be debited to the debtor any money which he may have agreed to pay in contravention of section 257A of the Code of Civil Procedure.

(*d*) in the account of principal there shall not be debited to the debtor any accumulated interest which has been converted into principal at any statement or settlement of account or by any contract made in the course of the transactions, unless the Court, for reasons to be recorded by it in writing, deems such debit to be reasonable:

(*e*) in the account of interest there shall be debited to the debtor, monthly, simple interest on the balance of principal for the time being outstanding, at the rate allowed by the Court as hereinafter provided:

(*f*) all money paid by or on account of the debtor to the creditor or on his account and all profits, service or other advantages of every description, received by the creditor in the course of the transactions (estimated, if necessary, at such money-value as the Court in its discretion, or with the aid of arbitrators appointed by it may determine), shall be credited first in the account of interest; and when any payment is more than sufficient to discharge the balance of interest due at the time it is made, the residue of such payment shall be credited to the debtor in the account of principal:

(*g*) the accounts of principal and interest shall be made up to the date of instituting the suit, and the aggregate of the balances (if any) appearing due on both such accounts against the debtor on that date shall be deemed to be the amount due at that date, except when the balance appearing due on the interest-account exceed that appearing due on the principal-account, in which case double the later balance shall be deemed to be the amount then due.

In certain cases rent may be charged in lieu of profits.

[1]**13A.** Where the mortgaged property is in the possession of the mortgagee or his tenants other than the mortgagor, and the Court is unable to determine what profits have been actually received, it may fix a fair rent for such property and charge to the mortgagee such rent as profits for the purpose of section 13:

Provided that, if it be proved that in any year there was an entire or serious failure of the crops, an abatement of the whole or part of such rent may be allowed for the year.

14. [*Interest to be allowed.*] *Rep. Act VI of 1895, s. 3.*

15. [*Reference to arbitration in certain cases.*] *Rep. Act VI of 1895, s. 3.*

Mortgagor entitled to decree for redemption though time fixed by mortgage has not arrived or debt has not been paid.

[2][**15A.** In a suit of the description mentioned in section 3, clause (*z*), the Court shall not refuse to pass a decree for redemption merely on the ground that the time fixed for the payment of the principal of the mortgage-money has not arrived, or on the ground that the mortgage-debt has not been completely discharged, or on both.]

Power of Court to name some future date for payment by the mortgagor.

[3][**15AA.** So far as it may be consistent with the provisions of this Act every decree for redemption or foreclosure of any mortgage, and every decree or order for the sale of any mortgaged property made at the instance of a mortgagee thereof, shall name such future day, not being less than six months after the date of such decree, as the Court may think reasonable for the payment by the mortgagor of the money payable under the decree, and no such foreclosure shall be made absolute nor shall any such sale take place before the day so named.]

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[1] Section 13A was inserted by s. 7 of the Dekkhan Agriculturists' Relief Act, 1895 (6 of 1895).

[2] Sections 15A, 15B, 15C and 15D were inserted by s. 6 of the Dekkhan Agriculturists' Relief Act, 1882 (22 of 1882).

[3] Section 15AA was inserted by s. 8 of the Dekkhan Agriculturists' Relief Act, 1895 (6 of 1895).

Power to order payment by instalments in case of decree for redemption, foreclosure or sale

[1][**15B.** (*1*) The Court may in its discretion, in passing a decree for redemption, foreclosure or sale in any suit of the descriptions mentioned in section 3, clause (*y*) or clause (*z*), or in the course of any proceedings under a decree for redemption, foreclosure or sale passed in any such suit, whether before or after this Act comes into force, direct that any amount payable by the mortgagor under that decree shall be payable in such instalments, on such dates and on such terms as to the payment of interest, and, where the mortgagee is in possession, as to the appropriation of the profits and accounting therefor, as it thinks fit.

(*2*) If a sum payable under any such direction is not paid when due, the Court shall, except for reasons to be recorded by it in writing, instead of making an order for the sale of the entire property mortgaged or for foreclosure, order the sale of such portion only of the property as it may think necessary for the realisation of that sum.]

Power to continue the mortgagee in possession.

[2][(*3*) In passing a decree for redemption or foreclosure in any such suit as aforesaid, the Court may direct that the amount payable by the mortgagor shall be discharged by continuing the mortgagee in possession for such further period as will enable him to recover his principal with reasonable interest, and that on the expiry of such period the property mortgaged shall be restored to the mortgagor.

[2](*4*) When the amount payable to a mortgagee in possession has been determined in any such suit as aforesaid, the Court may, in its discretion, instead of making an order for payment thereof, direct that the mortgagee be continued in possession for such period (to be specified by the Court) as will, in the opinion of the Court, be sufficient to enable him to recover from the profits the amount payable by the mortgagor together with reasonable interest, and that on the expiry of such period the property mortgaged shall be restored to the mortgagor.]

Power to order payment by instalments in suits for possession of mortgaged property.

[1][**15C.** (*1*) The Court may, if it thinks fit, in any suit for the possession of mortgaged property under section 3, clause (*y*), instead of passing a decree for possession of that property, pass a decree directing that the amount payable by the mortgagor shall be payable in such instalments, on such dates and on such terms as to the payment of interest, and as to the appropriation of the profits and accounting therefor, as it thinks fit.

(*2*) If a sum payable under any such direction is not paid when due, the Court may, if it thinks fit, instead of making any other order which it is empowered to make for the realisation of that sum, make an order directing that the mortgagee be put in possession of the whole or any portion of the property mortgaged.]

Mortgagor may sue for account.

[1][**15D.** (*1*) Any agriculturist whose property is mortgaged may sue for an account of the amount of principal and interest remaining unpaid on the mortgage and for a decree declaring that amount.

(*2*) When any such suit is brought, the amount (if any) remaining unpaid shall be determined under the same rules as would be applicable under this Act if the mortgagee had sued for the recovery of the debt.

(*3*) At any time before the decree in the suit is signed, the plaintiff may apply to the Court to pass a decree for the redemption of the mortgage, or the mortgagee, if he would then have been entitled to sue for foreclosure or sale, may apply to the Court to pass a decree for foreclosure or sale (as the case may be), instead of a decree merely declaring the amount remaining unpaid, and the Court may, if it thinks fit, grant the application.

[1] Sections 15A, 15B, 15C and 15D were inserted by s. 6 of the Dekkhan Agriculturists' Relief Act, 1882 (22 of 1882).

[2] Sub-sections (*3*) and (*4*) of section 15B were inserted by s. 9, *ibid.*

(*4*) The provisions of section 15B shall apply to any decree passed under sub-section (*3*).]

Agriculturist debtors may sue for accounts.

16. Any agriculturist may sue for an account of money lent or advanced to or paid for him by a creditor, or due by him to the creditor as the price of goods sold, or on a written or unwritten engagement for the payment of money, and of money paid by him to the creditor, and for a decree declaring the amount, if any, still payable by him to the creditor.

Amount of debts in such cases to be determined according to foregoing provisions.

When any such suit is brought, the amount (if any) payable by the plaintiff shall be determined under the same rules as would be applicable under this Act if the creditor had sued him for recovery of the debt.

Decree under section 16 may provide for payment by instalments.

Execution of decrees under this section.

17. A decree passed under section 16 may, besides declaring the amount due, direct that such amount shall be paid by instalments, with or without interest; and, when any such decree so directs, the plaintiff may pay the amount of such decree, or the amount of each instalment fixed by such decree, as it falls due, into Court, in default whereof execution of the decree may be enforced by the defendant in the same manner as if he had obtained a decree, in a suit to recover the debt.

Payment into Court in cases under section 16.

18. The plaintiff in any suit instituted under section 16 may at any stage of such suit deposit in Court such sum of money as he considers a satisfaction in full of the defendant's claim against him.

Notice of the deposit shall be given by the Court to the defendant, and the amount of the deposit shall (unless the Court otherwise directs) be paid to the defendant on his application.

No interest shall be allowed to the defendant on any sum so deposited from the date of the receipt of such notice, whether the sum deposited be in full of the claim or fall short thereof.

19. [*Power to discharge judgment-debtor. Power to direct institution of insolvency proceedings.*] *Rep. Act VI of 1895, s. 3.*

Power to fix instalments in execution.

20. The Court may at any time direct that the amount of any decree passed, whether before or after this Act comes into force, against an agriculturist, or the portion of the same which it directs under section 19 to be paid, shall be paid by instalments with or without interest.

Arrest and imprisonment in execution of decree for money, abolished.

21. No agriculturist shall be arrested or imprisoned in execution of a decree for money [1][passed whether before or after this Act comes into force].

Immoveable property exempted from attachment and sale unless specifically pledged.

22. [2][Immovable property belonging to an agriculturist [3]* * * * shall not be attached or sold] in execution of any decree or order [4][passed whether before or after this Act comes into force], unless it has been specifically mortgaged for the

[1] These words were added by s. 8 of the Dekkhan Agriculturists' Relief Act, 1882 (22 of 1882).

[2] These words were substituted for the words "No agriculturists' immoveable property shall be attached or sold" by s. 7 of the Dekkhan Agriculturists' Relief Act, 1886 (23 of 1886).

[3] The words "other than his standing crops" were repealed by s. 10 of the Dekkhan Agriculturists' Relief Act, 1895 (6 of 1895).

[4] These words were inserted by s. 9 (*1*) of the Dekkhan Agriculturists' Relief Act, 1882 (22 of 1882).

repayment of the debt to which such decree or order relates, and the security still subsists. [1][For the purposes of any such attachment or sale as aforesaid, standing crops shall be deemed to be moveable property.]

But the Court, [2][on application or of its own motion], may, when passing a decree against an agriculturist or [3][in the course of any proceedings under a decree against an agriculturist passed whether before or after this Act comes into force] direct the Collector to take possession, for any period not exceeding seven years, of any such property of the judgment-debtor to the possession of which he is entitled, and which, in the opinion of the Collector, is not required for his support and the support of the members of his family dependent on him, and the Collector shall thereupon take possession of such property and deal with the same for the benefit of the decree-holder in manner provided by section 29.

The provisions of section 31 shall, *mutatis mutandis*, apply to any property so dealt with.

Power of Collector to set aside sale.

[4][**22A.** (*1*) When any immoveable property belonging to an agriculturist has been sold by public auction under the provisions of section 325 of the [5]Code of Civil Procedure, the sale may within thirty days from the date of the auction be set aside by the Collector, if he considers the price bid by the purchaser to be inadequate. XIV of 1882.

(2) When the sale is so set aside the purchaser shall be entitled to receive back his deposit or his purchase-money, as the case may be, and the Collector may re-sell the property by public auction or private contract, as he thinks fit. Every such re-sale shall be deemed to be a sale under the provisions of section 325 of the Code of Civil Procedure.] XIV of 1882.

Chapter not to apply to Village-munsifs' Courts.

23. No provision of this Chapter shall apply to the proceedings in the Courts of Village-munsifs unless such provision has been specially extended thereto under the power hereinafter conferred.

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[6]CHAPTER IV.

OF INSOLVENCY.

Subordinate Judges to have jurisdiction in agriculturists' cases.

24. Every Subordinate Judge shall have the powers conferred by sections 344 to 359 (both inclusive) of the [5]Code of Civil Procedure, as modified by the provisions next hereinafter contained, for the purpose of dealing with applications under the [5]Code of Civil Procedure or under this Act to have agriculturists residing within the local limits of his ordinary jurisdiction declared insolvent and proceedings taken under orders passed under the second clause of section 19; and, except as provided in Chapter VII of this Act, no such application or proceeding shall be dealt with by any other Court.

Agriculturists may apply for adjudication in cases not provided for by Code.

25. Any agriculturist whose debts (if any) amount to fifty rupees or upwards may apply to any Subordinate Judge within the local limits of whose ordinary jurisdiction he resides to be declared an insolvent, though he has not been arrested or imprisoned, and though no order of attachment has issued against his property, in execution of a decree.

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[1] These words were inserted by s. 10 of the Dekkhan Agriculturists' Relief Act, 1895 (6 of 1895).

[2] These words were inserted by s. 9 (*2*) of the Dekkhan Agriculturists' Relief Act, 1882 (22 of 1882).

[3] These words were substituted for the words "or at any subsequent time" by s. 9 (*3*), *ibid.*

[4] S. 22A was inserted by s. 3 of the Dekkhan Agriculturists' Relief (Amendment) Act, 1907 (Bom. 7 of 1907).

[5] For the Code of Civil Procedure, *see* now Act 5 of 1908.

[6] The Provincial Insolvency Act, 1920 (5 of 1920), does not apply to cases to which this Chapter is applicable; *See* s. 82 of that Act.

Modification of section 351 of the Code.

26. Notwithstanding anything contained in section 351 of the [1]Code of Civil Procedure, the Court shall declare an agriculturist an insolvent if it is satisfied that he is in insolvent circumstances, and that the application to have him declared an insolvent has been properly made under section 344 of the said [1]Code or section 25 of this Act.

Receiver.

27. No person other than the nazir of the Court shall be appointed as receiver, and no receiver shall be entitled to commission.

Proof of debts.

28. In determining under section 352 of the said [1]Code the amount of any claim of the nature referred to in section 12 of this Act due by an insolvent agriculturist, the Court shall proceed in the manner prescribed by sections 12 to 15 of this Act, both inclusive.

Immovable property not to vest in receiver, but may be managed for benefit of creditors.

29. No immovable property of the insolvent shall vest in the receiver; but the Court, [2][on application or of its own motion], may direct the Collector to take into his possession, for any period not exceeding seven years from the date on which the receiver has been appointed, any immovable property to the possession of which the insolvent is entitled, and which, in the opinion of the Collector, is not required for the support of the insolvent and the members of his family dependent on him, and, subject to any rules the [3][Provincial Government] may from time to time make in this behalf, to manage the same for the benefit of the creditors by letting it on lease or otherwise :

Provided that, if the insolvent or his representative in interest at any time pays into Court the balance of the scheduled debts then unpaid, he shall, subject to any rights created in favour of other persons by the Collector, be entitled to recover possession of such property.

A Collector managing property under this section shall during the management have all the powers which the owner might as such have legally exercised, and shall receive and recover all rents and profits of such property, and for the purpose of recovering such rents and profits shall have, in addition to any powers possessed by an owner, all powers possessed by a Collector for securing and recovering the land-revenue due to Government except the powers mentioned in the Bombay Land-revenue Code, 1879, section 150, clauses (*b*), (*d*) and (*e*).

Bom. V of 1879.

Nothing in this section shall authorise the Court to direct the Collector to take into his possession any houses or other buildings belonging to and occupied by an agriculturist.

Secured debts.

30. When any scheduled debt is secured by a mortgage of any portion of the insolvent's immovable property, the Court, [4][on application or of its own motion], may direct the Collector, if he can obtain a premium equal to the amount of such debt by letting such property for a term not exceeding twenty years, to let such property, and, if he cannot so obtain such premium, to sell such property under section 325 of the [1]Code of Civil Procedure.

Where property is let under this section the premium shall be applied to the payment of the debt, and the rent, if any, shall for a period of seven years from the date of such letting be paid to the receiver and thereafter to the insolvent or his representative in interest.

When property is sold under this section, the sale-proceeds shall be applied, first, to the payment of the debt, and the balance, if any, shall be paid to the receiver.

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[1] For the Code of Civil Procedure, *see* now Act 5 of 1908.

[2] These words were inserted by s. 10 of the Dekkhan Agriculturists' Relief Act, 1882 (22 of 1882).

[3] The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation of Indian Laws Order in Council.

[4] These words were inserted by s. 10 of the Dekkhan Agriculturists' Relief Act, 1882 (22 of 1882).

Insolvent incompetent to sell, etc., property dealt with under sections 29 and 30.

31. So long as any management under section 29 or letting under section 30 continues, the insolvent and his representative in interest shall be incompetent to mortgage, charge, lease or alienate the property managed or let, or any part thereof.

Scheduled debts discharged.

32. When the balance available for distribution among the scheduled creditors under section 356 of the said Code has been distributed, the claims of such creditors shall be deemed to have been discharged, except as regards the right to share in the profits of any property managed by the Collector under section 29, or let by him under section 30.

Appeals barred.

33. No appeal shall lie from any order passed under this Chapter except orders passed in exercise of the power conferred by section 359 of the [1]Code of Civil Procedure.

CHAPTER V.

OF VILLAGE-MUNSIFS.

Appointment of Village-munsifs.

34. The [2][Provincial Government] may, from time to time, appoint any patel of a village or any other person possessing local influence in a village to be a Village-munsif for such village or for such village and for any other villages the sites of which are situate in the same district not more than two miles from the site of such village, and may cancel any such appointment.

Suits triable by them.

35. Every Village-munsif so appointed shall take cognisance of suits of the description mentioned in section 3, [3][clauses (*w*) and (*x*),] when the subject-matter thereof does not exceed [4][twenty-five] rupees in amount or value, and all the defendants at the time of the commencement of the suit actually and voluntarily reside or carry on business or personally work for gain within the local area for which such Village-munsif is appointed.

Jurisdiction of other Courts excluded.

Notwithstanding anything hereinbefore contained, a suit cognizable by a Village-munsif shall not be heard by any other Court:

Proviso.

Provided that the District Judge may, from time to time, transfer any suit instituted before a Village-munsif to his own Court or any other Civil Court in the district for trial:

Provided also that no Village-munsif shall try any suit to or in which he is a party or is personally interested, or shall adjudicate upon any proceeding connected with or arising out of such suit.

District Judge's power of revision.

36. The District Judge may, on a petition being presented within thirty days from the date of any decree or order of a Village-munsif by any party deeming himself aggrieved by such decree or order, set aside such decree or order on the ground of corruption, gross partiality or misconduct of the Village-munsif [5][or on the ground that the Village-munsif has exercised a jurisdiction not vested in him by law] and pass such other decree or order as he thinks fit.

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[1] For the Code of Civil Procedure, *see* now Act 5 of 1908.

[2] The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation of Indian Laws Order in Council.

[3] The words, letters and brackets "clauses (*w*) and (*x*)" were substituted for the word, letter and brackets "clause (*w*)" by s. 2 of Bom. 7 of 1927.

[4] The word "twenty-five" was substituted for the word "ten", *ibid.*

[5] These words were added by s. 11 of the Dekkhan Agriculturists' Relief Act, 1895 (6 of 1895).

Except as provided in this Act and in section 622 of the [1]Code of Civil Procedure, every decree and order of a Village-munsif shall be final.

Power of Provincial Government to make rules.

37. The [2][Provincial Government] may, from time to time, by notification in the Official Gazette, make rules consistent with this Act for regulating the procedure of Village-munsifs and for conferring on them or any of them all or any of the powers for the trial of suits or the execution of decrees exercised by a Civil Court under the Code of Civil Procedure or any other enactment for the time being in force.

CHAPTER VI.[3]

OF CONCILIATION.

Appointment of Conciliators.

38. The [2][Provincial Government] may, from time to time, appoint any person other than an officer of Police to be a Conciliator, and may cancel any such appointment.

Every Conciliator appointed under this section shall be appointed only for a term not exceeding three years, but may, on the expiration of the period for which he has been appointed, be again appointed for a further term not exceeding three years.

Every Conciliator so appointed shall exercise his functions under this Act in respect of matters affecting agriculturists residing within such local area as the [2][Provincial Government] may, from time to time, prescribe.

[4][The expression "officer of Police" in this section shall not be deemed to include a Police patel appointed under Bombay Act No. VIII of 1867 (*for the Regulation of the Village-police in the Presidency of Bombay*).]

Matters which may be brought before Conciliator.

39. When any dispute arises as to, or there is a prospect of litigation regarding any matter within the cognizance of a Civil Court between two or more parties, one of whom is an agriculturist residing within any local area for which a Conciliator has been appointed, or when application for execution of any decree in any suit to which any such agriculturist is a party, and which was passed before the date on which this Act comes into force, is contemplated, any of the parties may apply to such Conciliator to effect an amicable settlement between them.

Procedure thereupon.

40. If the application be made by one of the parties only, the Conciliator shall take down, or cause to be taken down, in writing a concise statement of the applicants' case, and shall thereupon, by summons or by such other means as he deems fit, invite the person against whom such application is made to attend before him at a time and place to be fixed for this purpose, and shall direct the applicant also to be present at such time and place.

Day for attendance may from time to time be postponed

If such person fails to appear at the time first fixed, the Conciliator may, if he thinks fit, from time to time extend the period for his appearance.

[5][A Conciliator empowered by the [2][Provincial Government] in this behalf may instead of inviting, direct the person against whom the application is made to attend at the time and place either first or subsequently fixed.]

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[1] For the Code of Civil Procedure, *see* now Act 5 of 1908.

[2] The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation of Indian Laws Order in Council.

[3] The appointments of Conciliators have been cancelled by G. N., J. D., No. 3478, dated the 10th May 1913 (*vide B. G. G.*, Pt. I, p. 752).

[4] This paragraph was added by s. 7 of the Dekkhan Agriculturists' Relief Act, 1881 (23 of 1881).

[5] These paragraphs were added by s 8 of the Dekkhan Agriculturists' Relief Act, 1886 (23 of 1886).

[1][If an applicant, or a person against whom an application is made, fails to be present or attend at the time and place specified in a direction proceeding from a Conciliator under this section, he shall be deemed to have committed an offence under section 174 of the Indian Penal Code]. XLV of 1860

When all parties appear, Conciliator to endeavour to reconcile them.

41. Whenever all the parties are present, the Conciliator shall call upon each in turn to explain his case regarding the matter in question, and shall use his best endeavours to induce them to agree to an amicable settlement or to submit such matter to arbitration.

Conciliator to hear statements of witnesses, etc.

42. The Conciliator shall hear but shall not record the statement of any witness, and shall peruse any book of account or other document produced by the parties, or so much thereof as may be necessary, and if any party or witness consents in writing to affirm any statement upon oath in any form not repugnant to justice or decency and not purporting to affect any third person, shall provide for such oath being duly taken in the presence of all the parties.

Any agreement arrived at to be reduced to writing.

43. If on the day on which the case is first heard by the Conciliator, or on any subsequent day to which he may adjourn the hearing, the parties come to any agreement, either finally disposing of the matter or for referring it to arbitration, such agreement shall be forthwith reduced to writing, and shall be read and explained to the parties, and shall be signed or otherwise authenticated by the Conciliator and the parties respectively.

Explanation.—A Conciliator may be appointed arbitrator under this section.

Procedure when agreement finally disposes of case and in other circumstances

[2]44. [(*1*) When the agreement is one finally disposing of the matter, the Conciliator shall forward the same in original to the Court of the Subordinate Judge of lowest grade having jurisdiction in the place where the agriculturist who is a party thereto resides, and shall at the same time deliver to each of the parties a written notice to show cause before such Judge, within one month from the date of such delivery, why such agreement ought not to be filed in such Court.

(*2*) The Court which receives the agreement shall in all cases scrutinise the same, and if it thinks that the agreement is a legal and equitable one finally disposing of the matter, and that it has not been made in fraud of the stamp or registration laws, it shall, after the expiry of the said period of one month, unless cause has been shown as aforesaid, order such agreement to be filed; and it shall then take effect as if it were a decree of the said Court passed on the day on which it is ordered to be filed and from which no appeal lies.

(*3*) If the said Court thinks that the agreement is not a legal or equitable one, or that it does not finally dispose of the matter, or that it has been made in fraud of the stamp or registration laws, it shall of its own motion issue process for the attendance of the parties, and if after such inquiry as may be deemed necessary the Court finds that such agreement is a legal and equitable one finally disposing of the matter, and that it has not been made in fraud of the stamp or registration laws, it shall order such agreement to be filed; and it shall then take effect as if it were a decree of the said Court passed on the day on which it is ordered to be filed, and from which no appeal lies.

(*4*) If, on the other hand, the said Court finds that the agreement does not constitute a legal or equitable agreement, or that it does not finally dispose of the matter, or that it has been made in fraud of the stamp or registration laws, it shall return the said agreement to the Conciliator, and such Conciliator shall thereupon be bound to furnish on demand to the parties or any one of them a certificate under section 46.

[1] These paragraphs were added by s. 8 of the Dekkhan Agriculturists' Relief Act, 1886 (23 of 1886).

[2] This section was substituted for section 44 by s. 12 of the Dekkhan Agriculturists' Relief Act, 1895 (6 of 1895).

(5) The Court may in any case, for reasons to be recorded by it in writing, from time to time extend the period of one month allowed for showing cause under this section.]

Procedure where agreement is for reference to arbitration.

45. When the agreement is one for referring the matter to arbitration, the Conciliator shall forward it to the Court having jurisdiction in the matter, and such Court shall cause it to be filed and proceed thereon in manner provided by sections 523 and 524 of the [1]Code of Civil Procedure.

Certificate to be given to applicant if conciliation fails.

46. If the person against whom any application is made before a Conciliator cannot after reasonable search be found, or if he refuses or neglects, after a reasonable period has been allowed for his appearance, to appear before the Conciliator, or if he appears but the endeavour to induce the parties to agree to an amicable settlement or to submit the matter in question to arbitration fails, the Conciliator shall, on demand, give to the applicant, or when there are several applicants to each applicant, a certificate under his hand to that effect.

Suit, or application for execution, not to be entertained, by Civil Court unless such certificate is produced.

47. No suit, and no application for execution of a decree passed before the date on which this Act comes into force, to which any agriculturist residing within any local area for which a Conciliator has been appointed is a party, shall be entertained by any Civil Court unless the plaintiff produces [2][a certificate in reference thereto obtained by him under section 46 within the year immediately preceding]

[3][*Explanation.*—The expression "Civil Court" in this section does not include a Mámlatdár's Court under Bombay Act No. III of 1876 [4](*to consolidate and amend the law relating to the powers and procedure of Mámlatdár's Courts*).]

Allowance to be made in period of limitation.

[5][**48.** In computing the period of limitation prescribed for any such suit or application the time intervening between the application made by the plaintiff under section 39 and the grant of the certificate under section 46 shall be excluded.]

[6]* * * * * * *

48A. [*Repealed.*]

Provincial Government to make rules.

49. The [7][Provincial Government] may from time to time make rules—

(*a*) regulating the procedure before Conciliators in matters not provided for by this Act;

(*b*) fixing the charges to be made by Conciliators for anything done by them under this Chapter; and

(*c*) determining what record and accounts shall be kept by Conciliators, and what returns shall be framed and furnished by them.

CHAPTER VII.

SUPERINTENDENCE AND REVISION.

District Judge to inspect, etc.

50. The District Judge shall inspect, supervise and control the proceedings, under [8][Chapter II, Chapter IV and Chapter VI] of this Act, of all Subordinate Judges and the proceedings of all Village-munsifs and Conciliators.

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[1] For the Code of Civil Procedure, *see* now Act 5 of 1908.

[2] These words were substituted for the words "such certificate as aforesaid in reference thereto" by s. 13 of the Dekkhan Agriculturists' Relief Act, 1882 (22 of 1882).

[3] This *Explanation* was added by s. 9 of the Dekkhan Agriculturists' Relief Act, 1881 (23 of 1881).

[4] This reference to Bombay Act No. III of 1876 should now be read as applying to Bombay Act No. II of 1906.

[5] This section was substituted for section 48 by s. 10 of the Dekkhan Agriculturists' Relief Act, 1881 (23 of 1881).

[6] The second paragraph was repealed by the Repealing and Amending Act, 1891 (12 of 1891).

[7] The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation of Indian Laws Order in Council.

[8] These words and figures were substituted in ss. 50 and 51 for the words and figures "Chapter II and Chapter IV" by s. 14 of the Dekkhan Agriculturists' Relief Act, 1882 (22 of 1882).

District Judge may withdraw case from Conciliator or Subordinate Judge.

[1]51. [The District Judge may—

(*a*) transfer any application pending before a Conciliator to the file of any other Conciliator;

(*b*) [2][transfer from the Court of one Subordinate Judge to another any suit or any agreement pending before a Subordinate Judge under section 44 of this Act; or] transfer to his own file any suit or other matter pending before the Court of any Subordinate Judge under [3][Chapter II, Chapter IV or Chapter VI] of this Act, and may dispose of the same as if he were a Subordinate Judge; or

or sit with Subordinate Judge as a Bench for trial of any case.

(*c*) stay the proceedings in any such suit or matter, and sit together with such Judge as a Bench to dispose of such suit or matter in accordance with the provisions of this Act.

If the members of any Bench sitting under this section differ in opinion the opinion of the District Judge shall prevail.]

Appointment of Assistant or Subordinate Judges to aid District Judge.

[4][52. (*1*) The [5][Provincial Government] may appoint an Assistant or Subordinate Judge to inspect and supervise, subject to the control of the District Judge, the proceedings of all Subordinate Judges under Chapter II, Chapter IV and Chapter VI of this Act, and of all Village-munsifs and Conciliators in any district or part of a district to which this Act applies.

Provided that, if the [5][Provincial Government] thinks fit, the same Assistant or Subordinate Judge may be so appointed for two or more such districts or parts of districts or districts and parts of districts.

(*2*) The District Judge may, by order, confer upon any Assistant or Subordinate Judge appointed under this section, as regards any district or part of a district for which he is so appointed, all or any of the powers specified in the order which vest in the District Judge under section 51.]

Of revision.

53. The District Judge may, for the purpose of satisfying himself of the legality or propriety of any decree or order passed by a Subordinate Judge in any suit or other matter under [6][Chapter II, Chapter IV or Chapter VI] of this Act, and as to the regularity of the proceedings therein, call for and examine the record of such suit or matter, and pass such decree or order thereon as he thinks fit;

and any Assistant Judge or Subordiante Judge appointed by the [5][Provincial Government] under section 52 may similarly, in any district for which he is appointed, call for and examine the record of any such suit or matter, and if he see cause therefor, may refer the same, with his remarks thereon, to the District Judge, and the District Judge may pass such decree or order on the case as he thinks fit:

Provided that no decree or order shall be reversed or altered for any error or defect or otherwise, unless a failure of justice appears to have taken place.

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[1] This section was substituted for section 51 by s. 11 of the Dekkhan Agriculturists' Relief Act, 1881 (23 of 1881).

[2] These words were inserted by s. 13 of the Dekkhan Agriculturists' Relief Act, 1895 (6 of 1895).

[3] These words and figures were substituted in ss. 50 and 51 for the words and figures "Chapter II and Chapter IV" by s. 14 of the Dekkh n Agricu turists' Relief Act, 1882 (22 of 1882).

[4] This section was substituted for section 52 by s. 14 of the Dekkhan Agriculturists' Relief Act, 1895 (6 of 1895).

[5] The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation of Indian Laws Order in Council.

[6] These words and figures were substituted for the words and figures "Chapter II or Chapter IV" by s. 14 of the Dekkhan Agriculturists' Relief Act, 1882 (22 of 1882).

Special Judge.

54. The [1][Provincial Government] from time to time may [2]* * * * * * * * * * appoint an officer, as Special Judge, to discharge in the place of the District Judge all the functions of the District Judge under this Act in respect of the proceedings of all Subordinate Judges, Village-munsifs and Conciliators and may cancel any such appointment.

Such Special Judge shall not, without the previous sanction of the [1][Provincial Government], discharge any public function except those which he is empowered by this Act to discharge.

If any conflict of authority arises between the Special Judge and the District Judge, the High Court shall pass such order thereon consistent with this Act as it thinks fit.

No appeal shall lie from any decree or order passed by the District Judge under this Chapter, or by the Special Judge, or by an Assistant or Subordinate Judge appointed under section 52, or by a Bench, in any suit or proceeding under this Act.

[3][But the District Judge or Special Judge, or any Assistant or Subordinate Judge or Bench, may refer to the High Court, under section 617 of the [4]Code of Civil Procedure, any question of law, or usage having the force of law, or the construction of a document, arising in any case pending before him or it under this Chapter as if that case were a suit or an appeal pending before him or it; and, in respect of every reference so made, sections 618 to 621 of the said Code, both inclusive, shall apply :]

[3][Provided that no reference shall be made under this section by any Assistant or Subordinate Judge, or by any Bench of which the District Judge or Special Judge is not a member, without the previous sanction of the District Judge or Special Judge, as the case may be.]

CHAPTER VIII.[5]

REGISTRATION BY VILLAGE-REGISTRARS.

Appointment of Village-registrars.

55. The [1][Provincial Government] may from time to time,—

(*a*) appoint such persons as it thinks fit, whether public officers or not, to be Village-registrars for such local areas as it may, from time to time, prescribe;

(*b*) direct the Village-registrar for any local area to discharge the functions of a Village-registrar for any other local areas concurrently with the village-registrars of such other local areas; and

(*c*) delegate to any person, by name or in virtue of his office, the powers conferred on it by this section;

and may cancel any such appointment, direction or delegation.

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[1] The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation of Indian Laws Order in Council.

[2] The words "and if the Government of India so direct shall" were omitted by s. 2 and Sch. I of the Devolution Act, 1920 (38 of 1920).

[3] These paragraphs were added by s. 15 of the Dekkhan Agriculturists' Relief Act, 1882 (22 of 1882).

[4] For the Code of Civil Procedure, *see* now Act 5 of 1908.

[5] As the Village-registrars have now been abolished (*vide* G. R., R. D., No. 9669, dated 23rd February 1910) the chapter on "Registration by Village-registrars" has been rendered inoperative since the special procedure laid down in this chapter applies only in an area for which a Village-registrar has been appointed (s. 56). However, as provided by s. 63-A of the Act the procedure laid down in ss. 57 and 59 of this chapter still applies to registration by Sub-Registrars appointed under the Indian Registration Act, 1908.

Instruments executed by agriculturist not to be deemed valid unless executed before a Village-registrar.

56. No instrument which purports to create, modify, transfer, evidence or extinguish an obligation for the payment of money or a charge upon any property, or to be a conveyance or lease, and which is executed after this Act comes into force by an agriculturist residing in any local area for which a Village-registrar has been appointed, shall be admitted in evidence for any purpose by any person having by law or consent of parties authority to receive evidence, or shall be acted upon by any such person or by any public officer, unless such instrument is written by, or under the superintendence of, and is attested by, a Village-registrar:

Provided that nothing herein contained shall prevent the admission of any instrument in evidence in any criminal proceeding, [1][or apply to any instrument which is executed by an agriculturist merely as a surety,] [2][or to any instrument required by section 17 of the [3]Indian Registration Act, 1877, to be registered under that Act]. III of 1877.

Such instruments to be written by, or under the superintendence of, a Village-registrar and executed in his presence.

[4]**57.** [When any persons intend to execute any instrument to which section 56 applies, all such persons shall appear before the Village-registrar appointed for the area in which the agriculturist, or, when there are several agriculturists intending to execute the instrument, any one of such agriculturists, resides, and such registrar, after satisfying himself in such manner as he deems fit as to the identity of the intending executants and receiving the fee (if any) prescribed by the [5][Provincial Government] in this behalf, and the stamp (if any) which may be required by law, shall write the instrument, or cause the same to be written under his superintendence; and, after reading the same aloud, or causing it to be so read, in the hearing of the intending executants, shall require them to execute it in his presence.

Attestation of such instruments.

Every instrument so written and executed shall at the time of execution be attested by the Village-registrar, and also, if any of the executants thereof is unable to read such instrument, by two respectable witnesses.

For the purposes of this section every executant of any such instrument shall appear in person before the Village-registrar; but every other party thereto may appear either in person or by any agent, being his relative, servant or dependant, whom he has duly furnished with a power-of-attorney, [6][executed and authenticated in such manner as the [5][Provincial Government] may, from time to time, by rule prescribe,] authorising him to appear and act on his behalf.]

Registration of instruments by Village-registrars.

58. Every Village-registrar shall keep a register of instruments executed before him in such form as shall, from time to time, be prescribed by the Inspector-General of Registration.

As soon as all the [7][intending executants have executed any instrument] before a Village-registrar, he shall make a copy of it or cause a copy of it to be made in his register, and shall deliver the original instrument to the party entitled to the custody of the same [8]* * * * *

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[1] These words were inserted by s. 12 of the Dekkhan Agriculturists' Relief Act, 1881 (23 of 1881).

[2] This portion was added by s. 9 of the Dekkhan Agriculturists' Relief Act, 1886 (23 of 1886).

[3] *See* now Act 16 of 1908.

[4] This section was substituted for section 57 by s. 13 of the Dekkhan Agriculturists' Relief Act, 1881 (23 of 1881).

[5] The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation of Indi. n Laws Order in Council.

[6] These words were inserted by s. 16 of the Dekkhan Agriculturists' Relief Act, 1882 (22 of 1882).

[7] These words were substituted for the words "parties to any instrument have executed it" by s. 14 of the Dekkhan Agriculturists' Relief Act, 1881 (23 of 1881).

[8] The words "and a certified copy thereof to the other party, or to each of the other parties if there be more than one" were repealed by s. 10 (*1*) of the Dekkhan Agriculturists' Relief Act, 1886 (23 of 1886).

Previous to delivery, the original instrument [1]* * * * shall be endorsed under the Village-registrar's signature, with the date of registration, the name and residence of the Village-registrar, and the volume and page of the register in which the instrument has been registered.

[2][A certified copy of any entry in the register shall be granted by the Village-registrar, free of charge, on the application of any party to the instrument to which the entry relates, or of his agent or representative, and the copy shall be admissible as evidence of the contents of the instrument.]

Consideration to be fully stated in every instrument executed before a Village-registrar.

59. In every instrument written by, or under the superintendence of, the Village-registrar, the amount and nature of the consideration, if any, shall be fully stated.

The Village-registrar shall also endorse upon the instrument a note under his hand, recording whether or not the transfer of the consideration stated therein, or of any part thereof, took place in his presence.

Previous instrument to be produced.

If the instrument modifies, or wholly or partly supersedes, a previous instrument, such previous instrument shall be produced before the Village-registrar and shall be fully described in the instrument to be executed, and shall be marked by the Village-registrar under his hand for identification :

Production of copy of previous instrument when to be permitted.

[3][Provided that, if it is alleged that any such previous instrument is on the record for otherwise in the custody of a Court, or is lost, or has been destroyed, the Village-registrar, after ascertaining that such previous instrument was duly registered, may permit a certified copy thereof to be produced in lieu of the original; and in every such case the following procedure shall be observed, that is to say :

(*a*) the contents of the certified copy shall be fully described in the modifying or superseding instrument, and the said copy shall be marked by the Village-registrar under his hand for identification and shall then be delivered to the person who produced it ;

(*b*) if the previous instrument is lost, or has been destroyed, and the registered entry thereof is in his custody, the Village-registrar shall endorse on such entry a note under his hand as to the modification or supersession of the said instrument ;

(*c*) if the previous instrument is in the custody of a Court, or if it is lost, or has been destroyed, and the registered entry thereof is in the custody of another officer, the Village-registrar shall forward a certified copy of the entry in his register relating to the modifying or superseding instrument to such Court or officer, with a report explaining the circumstances, and such Court or officer shall on receipt thereof endorse on such previous instrument or registered entry a note as to the modification or supersession of the said instrument.]

Registration under this Act to be deemed equivalent to registration under Indian Registration Act, 1877.

60. Every instrument executed and registered in accordance with the foregoing provisions shall be deemed to have been duly registered under the provisions of the [4]Indian Registration Act, 1877 ; and no instrument which ought to have been executed before a Village-registrar but has been otherwise executed shall be registered by any officer acting under the said Act, or in any public office, or shall be authenticated by any public officer.

III of 1877.

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[1] The words " and each such copy " were repealed by s. 10 (*2*) by Act 23 of 1886.
[2] This paragraph was added by, s. 10 (*3*), *ibid.*
[3] This proviso was added by s. 3 of the Dekkhan Agriculturists' Relief Act, 1902 (Bom. I of 1902).
[4] *See* now Act 16 of 1908

Superintendence of Village-registrars and custody and destruction of their records.

61. [1][*(1)* The [2][Provincial Government] may appoint one, or more officers to exercise by themselves or their subordinates a general superintendence over all Village-registrars, and may either make rules, or empower such officer or officers to make rules, from time to time, consistent with this Act, for regulating the proceedings of the Village-registrars and for providing for the custody of their records.

(2) [2][The Provincial Government] may, by order to be published in the [3][Official Gazette], declare that any documents other than wills remaining unclaimed in any registration office in any district or part of a district to which this Act applies, for a period exceeding two years, may be destroyed.]

Exemption of instruments to which the Crown or any officer of the Crown is a party.

62. Nothing in this Act shall be deemed to require any instrument, to which [4][the Crown] or any officer [5][of the Crown] in his official capacity is a party, to be executed before a Village-registrar [6]* * * *

Power of Provincial Government to make rules.

63. The [2][Provincial Government] may, from time to time, make rules regulating the appointment, suspension, dismissal and remuneration of Village-registrars, and prescribing the fees to be levied by them.

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[7]CHAPTER VIIIA.

REGISTRATION OF INSTRUMENTS REFERRED TO IN SECTION 17 OF THE INDIAN REGISTRATION ACT, 1877.

Mode of execution by agriculturists of instruments required to be registered under Act III of 1877.

63A. *(1)* When an agriculturist intends to execute any instrument required by section 17 of the [8]Indian Registration Act, 1877, to be registered under that Act, III of 1877. he shall appear before the Sub-Registrar within whose sub-district the whole or some portion of the property to which the instrument is to relate is situate, and the Sub-registrar, shall write the instrument, or cause it to be written and require it to be executed, and attest it and, if the executant is unable to read the instrument, cause it to be further attested, and otherwise act in accordance with the procedure prescribed for a Village-registrar by sections 57 and 59 of this Act, and shall then register the instrument in accordance with the provisions of the [8]Indian Registration Act, 1877. III of 1877.

(2) An instrument to which sub-section *(1)* applies shall not be effectual for any purpose referred to in section 49 of the Act last-mentioned unless it has been written, executed and attested in the manner provided in that sub-section [9]* * * * *.

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[1] This section was substituted for the original section 61 by s. 15 of the Dekkhan Agriculturists Relief Act, 1895 (6 of 1895).

[2] The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation of Indian Laws Order in Council.

[3] The words "Official Gazette" were substituted for the words "Government Gazette", *ibid.*

[4] The words "the Crown" were substituted for the words "the Government", *ibid.*

[5] The words "of the Crown" were substituted for the words "of Government", *ibid.*

[6] The words "or any Society registered under the Co-operative Credit Societies Act, 1904," which were inserted by Bombay Act 1 of 1910, have been repealed by Bombay Act I of 1912, s. 3.

[7] Ch. VIIIA was inserted by s. 11 of the Dekkhan Agriculturists' Relief Act, 1886 (23 of 1886).

[8] *See* now Act 16 of 1908.

[9] The words, brackets and figures "sub-section *(1)* shall not apply to any instrument to which any Society registered under the Co-operative Credit Societies Act, 1904, is a party" which were inserted by Bom. 1 of 1910, have been repealed by Bom. 1 of 1912, s. 3.

CHAPTER IX.

Of Receipts and Statements of Account

Agriculturists entitled to written receipts:

64. The person to whom any agriculturist makes any payment of money in liquidation of a debt shall, at the time of such payment, tender to such agriculturist, whether he demands the same or not, a written receipt for the amount of such payment.

If such payment is made under any instrument executed before a Village-registrar, the receipt shall, if the agriculturist so require, be endorsed on the copy of the instrument furnished to him under section 58.

Annual statements of account.

65. Any agriculturist by whom any money is due under any instrument shall, on such date in each year as the [1][Provincial Government] having regard to local custom may, from time to time, by notification in the official Gazette, fix, be entitled to receive, on demand, from the person claiming under such instrument, a statement up to that date of his account under such instrument.

To have account made up from time to time in a pass-book.

66. Any agriculturist in whose name an account is kept by any trader or money-lender shall be entitled to receive from such trader or money-lender, on demand, a pass-book; and to require, from time to time, that his account up to date be written therein and authenticated by the signature or mark of the said trader or money-lender.

An entry so made in any such pass-book of any payment made to the trader or money-lender shall be deemed to be equivalent, for the purposes of section 64, to the grant of a receipt for the amounts so entered.

No person whose account has been written in a pass-book as required by this section shall be entitled also to demand an account under section 65.

Penalty for contravention of sections 64 to 66.

67. Any person who, in contravention of section 64, 65, or 66, refuses or neglects to tender a receipt or a statement of account or a pass-book, or to write, or cause to be written, any account or any part of an account in a pass-book, or to attest the same when so written, shall be punished for each such offence with fine which may extend to one hundred rupees.

CHAPTER X.

Legal Practitioners.

Pleaders, etc., excluded in certain cases.

68. [2][No pleader, vakil or mukhtar and no advocate or attorney of a High Court shall be permitted to appear on behalf of any party to any case before a Conciliator or a Village-munsif [3]* * * * *:

Provided that any party to any such case may be permitted, on reasonable cause being shown to the satisfaction of the Conciliator or Village-munsif, to employ any relative, servant or dependant who is not, and has not previously been, a pleader, vakil or mukhtar, or an advocate or attorney of a High Court, to appear either conjointly with, or in lieu of, such party.

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[1] The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation of Indian Laws Order in Council.

[2] This section was substituted for the original section 68 by s. 15 of the Dekkhan Agriculturists' Relief Act, 1881 (23 of 1881).

[3] The words "the subject-matter whereof does not exceed in amount or value one hundred rupees" were repealed by s. 17 of the Dekkhan Agriculturists' Relief Act, 1882 (22 of 1882).

When a relative, servant or dependant appears in lieu of a party, he shall be furnished by him with a power-of-attorney defining the extent to which he is empowered to act.]

Power of Court to appoint pleader for agriculturist.

69. When in any suit or proceeding before a Subordinate Judge under this Act to which an agriculturist is a party, any pleader, vakil or mukhtar, or any advocate or attorney of a High Court, appears on behalf of any party opposed to such agriculturist, the Subordinate Judge, if he is of opinion that such agriculturist has not the means of obtaining proper professional assistance, may with the consent of such agriculturist, direct the Government pleader or any other fit person (who is willing so to do) to appear on his behalf.

CHAPTER XI.

MISCELLANEOUS.

Mortgages, etc., to be valid only when written.

70. No mortgage, lien or charge of or upon any immovable property, belonging to an agriculturist shall be valid unless it is created by an instrument in writing under the hand of the person creating such mortgage, lien or charge.

Nothing in this section shall apply to any mortgage, lien or charge created by mere operation of law, or in favour of the Government or of any officer of the Government in his official capacity.

Bar of application of section 258, Act XIV, 1882

[1]**71.** [The last clause of section 258 of the [2]Code of Civil Procedure shall not apply to payments out of Court made in any proceeding under this Act, in any case where an acknowledgment by the judgment-creditor for the same is produced, or when the payment is either admitted by him or proved.] XIV of 1882.

Rate of interest allowable on taking an account.

[3]**71A.** In taking an account under section 13 or any suit under this Act where interest is chargeable, such interest shall be awarded at the following rates :—

(*a*) the rate, if any, agreed upon between the parties or the persons (if any) through whom they claim, unless such rate is deemed by the Court to be unreasonable ; or

(*b*) if such rate is deemed by the Court unreasonable, or if no rate was agreed upon, or, when any agreement between the parties or the persons (if any) through whom they claim, to set off profits against interest and assessment and similar charges without an account has been set aside by the Court, such rate as the Court may deem reasonable.]

Limitation.

[4]**72.** [In any suit [5][of the description mentioned in section 3, clause (*w*)] for the recovery of money from a person [6]* * * * who at the time when the cause of action arose was an agriculturist [7][in any of the districts of

[1] Section 71 was inserted by s. 16 of the Dekkhan Agriculturists' Relief Act, 1895 (6 of 1895). The original s. 71 (which was repealed by Act 23 of 1881) related to registration of mortgages executed before the passing of the Act.

[2] *See* now Act 5 of 1908.

[3] Section 71A was inserted by s. 17 of the Dekkhan Agriculturists' Relief Act, 1895 (6 of 1895).

[4] This section was substituted for the original s. 72 by s. 17 of the Dekkhan Agriculturists' Relief Act, 1881 (23 of 1881).

[5] These words were substituted for the words "under this Act" by s. 12 (*f*) of the Dekkhan Agriculturists' Relief Act, 1886 (23 of 1886).

[6] The words "not being merely a surety for the principal debtor" were repealed by s. 12 (2), *ibid.*

[7] These words were inserted by s. 18 of the Dekkhan Agriculturists' Relief Act, 1895 (6 of 1895).

Poona, Satara, Sholapur, and Ahmednagar], the following periods of limitation shall be deemed to be substituted for those prescribed in the second column of the Second Schedule annexed to the [1]Indian Limitation Act, 1877 (that is to say) :— XV of 1877.

(*a*) when such suit is founded on a written instrument registered under this Act on any law in force at the date of the execution of such instrument, —twelve years;

(*b*) in any other case,—six years:

[2]Provided that nothing in this section shall—

(*i*) apply to a suit for the recovery of money from a person who is a surety merely of the principal debtor if the principal debtor was not at the time when the cause of action arose, an agriculturist [3][in any of the districts aforesaid], or

(*ii*) revive the right to bring any suit which would have been barred by limitation if it had been instituted immediately before this Act comes into force.]

73. [*Decision as to whether person is an agriculturist, final.*] *Rep. Act VI of 1895. s. 3.*

Certain agricultural produce exempted from attachment, etc.

[4][**73A.** When the Collector has taken any immovable property of a judgment-debtor or insolvent into his possession under section 22 or section 29 he may by an order in writing, direct that any other such property not so taken shall be deemed to be reserved for the support of the judgment-debtor or insolvent and the members of his family dependent on him, and may rescind that order.

While any such order continues in force in respect of any immovable property, agricultural produce grown on that property shall not be attached or sold in execution of a decree passed whether before or after this Act comes into force and shall not vest in the receiver appointed in any insolvency proceedings.]

Civil Procedure Code to apply in Subordinate Judges' Courts.

74. Except in so far as it is inconsistent with this Act, the Code of Civil Procedure shall apply in all suits and proceedings before Subordinate Judges under this Act.

Co-operative Credit Societies.

[5][**74A.** Except section 2 and section 21, the provisions of this Act shall not apply to any matter to or in which any society registered under the [6]Co-operative Credit Societies Act, 1904, is a party.] X of 1904.

Additional power to make rules.

75. The [7][Provincial Government] may, from time to time, make all such rules as it may deem necessary for carrying out the provisions herein contained.

Rules to be published.

76. All rules made by the [7][Provincial Government] under this Act shall be published in the official Gazette and shall thereupon, in so far as they are consistent with this Act, have the force of law.

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[1] *See* now Act 9 of 1908.

[2] This proviso was substituted for the original proviso by s. 12 (*3*) of the Dekkhan Agriculturists' Relief Act, 1886 (23 of 1886).

[3] These words were inserted by s. 18 of the Dekkhan Agriculturists' Relief Act, 1895 (6 of 1895).

[4] S. 73A was inserted by s. 18 of the Dekkhan Agriculturists' Relief Act, 1882 (22 of 1882).

[5] S. 74A was inserted by s. 1 of the Dekkhan Agriculturists' Relief (Amendment) Act, 1912 (Bom. 1 of 1912).

[6] *See* now Bom. 7 of 1925.

[7] The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation of Indian Laws Order in Council.